

INGERSOLL-RAND CONSTRUCTION EQUIPMENT**General**

The Terms and conditions of Sale outlined herein shall apply to the sale by Ingersoll-Rand Company (hereinafter referred to as Equipment). Unless prior written agreement is reached, it shall be understood that the Company's proceeding with any work shall be in accordance with the terms and conditions outlined herein.

The Company will comply with applicable laws and regulations as they may apply to manufacture of the Equipment. Compliance with any local governmental laws regulations relating to the location, use or operation of the Equipment, or its use in conjunction with other equipment, shall be the sole responsibility of the Purchaser.

Title and Risk of Loss

Title and risk loss or damage to the Equipment shall pass to the Purchaser in tender of delivery. F.O.B. manufacturing facility unless otherwise agreed upon by parties, except that a security interest in the Equipment shall remain, in the company, regardless of mode of attachment to realty to other property, until payment has been made therefor. Purchaser agrees upon request to do all things and acts necessary to perfect and maintain said security interest and shall protect Company's interest by adequately insuring the Equipment against loss or damage from any cause wherein the Company shall be named as an additional insured.

Assignment

Neither party shall assign or transfer this contract without prior written consent of the other party. The Company however shall be permitted to assign or transfer, without prior written consent of the Purchaser, the Company's right to receive or any portion of the payment due from the Purchaser under this contract.

Delivery and Delays

Delivery dates shall be interpreted as estimated and in no event shall be construed as falling within the meaning of "time is of essence".

Company shall not be liable for any loss or delay due to war, riots, fire, flood, strikes, or other labor difficulty, acts civil or military authority including governmental orders, priorities or regulations, acts of Purchaser, embargo, car shortage, damage delay in transportation; inability to obtain necessary labor or materials from usual sources, faulty forging or castings, or other causes beyond the reasonable control of the company. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be adjusted to reflect the actual length of time lost reason of such delay. The Purchaser's receipt of Equipment shall constitute waiver of such claims for delay.

Taxes

The price does not include any present or future Federal, State, or local property, license, privilege sale, use, excise, gross receipt or other like taxes or assessments which may be applicable to, measured by, or imposed upon or result from transaction, or any services performed in connection therewith. Such taxes will be levied separately to Purchaser, who shall make prompt payment to the Company. The company will accept valid exemption certificate is not recognized by the governmental taxing authority involved, Purchaser agrees to promptly reimburse the Company for any taxes covered by such exemption certificate which the Company is required to pay.

Set Off

Neither the Purchaser nor any affiliated company or assignee shall have the right to claim compensation or to set off against any amounts which become payable to Company under this contract or otherwise.

Waivers

The Company shall defend any suit or proceeding brought against the Purchaser and shall pay and adverse judgment entered therein so far as such or proceeding is based upon a claim that the use of Equipment manufactured by the company, and furnished under this contract constitutes infringement of any patent of United States of America, providing the Company is promptly notified in writing given to the authority, information and assistance for defense of same; and the company shall, at its option, procure for the Purchaser the right to continue to use said equipment, or to modify it so that it becomes non-infringing, or to replace the same with non-infringing equipment, or to remove said Equipment and to refund the purchase price. The foregoing shall not be whatsoever in respect to patent for inventions including more than equipment furnished thereunder, or in respect of patents for methods and processes to be carried out with the aid of said Equipment. The foregoing shall be the entire liability of the Company with regard to patent infringement.

Warranty

The Company warrants that new Equipment manufactured by it delivered hereunder will be free of defects in material and workmanship for a period of (3) months from the date of shipment, whichever shall first occur.

The foregoing warranty period shall apply to all Company products, except the following:

1. **Mountings**-The earlier of six (6) months from the initial operation or none (9) months from the date of shipment to the initial user.

2. **Portable Compressors and Portable Generator Sets (GENSET)**-The earlier of twelve (12) months from shipment to, or the accumulation of 2,000 hours of service by, the initial user.

TERMS & CONDITIONS OF SALE

C. **All Compressor Air Ends and GENSET Generators**-The earlier of twenty-four (24) months from shipment to, or the accumulation of 4,000 hours of service by, the initial user. For Air Ends, the warranty against defects will include replacement of the complete Air End, provided the original Air End is returned assembled and unopened.

D. **Allatt Pavers, Forklifts, Landfill Machines, Pedestrians Compactors** (including baseplates, upright and walk behinds) and Rotary Dills -The earlier of six months from shipment to, or the accumulation of 1,000 hours of service by the initial user.

E. **Milling Machinery, Paving Breakers/Jackhammers and self-propelled Compactors**-The earlier of twelve (12) months from shipment to, or accumulation of 1,000 hours of service by, the initial user.

F. **Downhole Drills**-In lieu of the repair or replacement of defective parts, Ingersoll-Rand may elect to issue full or partial credit toward the purchase of a new part. The extent credit issued will be determined by pro rating against normal service life of the part in question.

G. **Spare Parts** (excluding downhole drills) -Three (3) months from date of shipment.

The Purchaser shall be obliged to promptly report and failure to conform to this warranty to the Company in writing within said period, whereupon the Company shall, at its option, correct such nonconformity, by suitable repair to such Equipment or furnish a replacement part. F.O.B. point of shipment, provided the Purchaser has stored, installed, maintained and operated such Equipment in accordance with the good industry practices and has complied with specific recommendations of the Company. The Company shall not be liable for any repairs, replacements, or adjustments to the Equipment of any costs of labor performed by the Purchaser or others without the Company's prior written approval.

The effects of corrosion, erosion and normal wear and tear are specifically excluded from the Company's warranty. Performance warranties, if any, are limited to those specifically stated within the Company's proposal. Unless reshaped or field tests, the Company's obligation shall be to correct in the manner and for the period of time provided above.

Accessories or equipment furnished by the Company, but manufactured by others, including, but not limited to, engines, tires, batteries, engine electrical equipment, hydraulic transmissions, carriers, shall carry whatever warranty the manufacturers have conveyed to the Company and which can be passed on to the Purchaser.

THE COMPANY MAKES NO OTHER WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER, EXPRESSED OR IMPLIED, EXCEPT THAT OF TITLE, AND ALL IMPLIED WARRANTIES, INCLUDING AN WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.

Correction by the Company of nonconformity's whether patent or latent, in the manner and for the period of time provided above, shall constitute fulfillment of all liabilities of the Company for such nonconformity's, whether based on contract warranty, negligence, indemnity, strict liability or otherwise with respect to or arising out of such Equipment.

The Purchaser shall not operate Equipment, which is considered to be defective, without first notifying the Company in writing of its intention to do so. Any such use of Equipment will be at the purchaser's sole risk and liability.

ALL USED EQUIPMENT IS SOLD 'AS IS', WITH ALL FAULTS'

9. **Limitations of Liability:** The remedies of the Purchaser set forth herein are exclusive, and the total liability of the Company with respect to this contract of the Equipment and services furnished hereunder, in connection with the performance or breach thereof, or from the manufacture sale, delivery, installation, repair or technical direction covered by or furnished under this contract, whether based on contract, warranty, negligence, indemnity, strict liability or otherwise, shall not exceed the purchase price of the unit of Equipment which such liability is based.

The Company and its suppliers shall in no event be liable to the Purchaser any successors in the interest or any beneficiary or assignee of this contract for any consequential, incidental, indirect, special or punitive damages arising out of this contract or any breach thereof, or any defect in, or failure of, or malfunction of the Equipment hereunder, whether based upon loss of use, lost PROFITS or revenue, interest, lost goodwill, work stoppage, impairment of other goods, loss by reason of shutdown or non-operation, increased expenses of operation, cost of purchase of replacement power of claims of purchasers or customers or Purchasers for service interruption whether or not such loss or damage is based on contract, warranty, negligence, indemnity, strict liability or otherwise.

10. **Nuclear Liability:** In the event that the Equipment sold hereunder is to be used in a nuclear facility, the Purchaser hereby releases and agrees to indemnify the Company and its suppliers for any nuclear damage, including loss of use, in any manner arising out of a nuclear incident, whether alleged to be due, in whole or in part to the negligence or otherwise of the Company or its suppliers.

11. **Governing Law:** The right and obligations of the parties shall be governed by the laws of the State of New Jersey.

12. **Execution:** The Company shall not be bound by any contract or any modification thereto until approved in writing by an officer of the Company. The Contract when so approved shall supersede all previous communications, either oral or written.

INGERSOLL-RAND COMPANY (LD-103) 8.89